

Testimony to the Maryland Commission on Capital Punishment

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September 22, 2008

Chairman Civiletti and distinguished Members of this Commission,

Thank you for your service to the people of Maryland.

My name is Jane Henderson and I am the executive director of Maryland Citizens Against State Executions. I speak today on behalf our thousand of members across the free state.

Over the last eight years, I have watched public opinion on the death penalty almost completely reverse itself.

One after another, I have watched death penalty supporters change their minds or join us to say it's simply not worth it.

I have heard victims' family members conclude that the system they believed in has instead added to their trauma and grief, and members of law enforcement say it has made their jobs harder.

I have seen more and more of our elected representatives acknowledge the failings of the death penalty and fight to persuade our State to replace it with life without parole. Earlier this year, a record number of legislators – 56 members of the House of Delegates and 16 Senators – co-sponsored legislation to repeal the death penalty and make life without parole the maximum sentence in our state. And I have seen our governor be more truthful on this issue than any governor in the country in decades.

Perhaps most importantly, I have watched all of these people come together and speak up in greater numbers than ever before to say that they do not want this policy to continue.

Our supporters have left work early to attend these hearings, while others have followed them closely from home. Their devotion to consigning executions to our State's history books is a clear indication of a dramatic evolution. This Commission should take note of their numbers, their passion, their diversity of perspectives, and the unanimity of their conclusions.

There can no longer be any doubt that Maryland's death penalty is broken and wasteful. For 30 years, the people of our state have tried, many with the very best of intentions, to justify our attachment to capital punishment. These efforts have failed.

Some have looked the other way when faced with overwhelming evidence that the death penalty is arbitrarily and unfairly applied.

Others have convinced themselves that the criminal justice system always gets it right – and yet innocent men and women have lost decades of their lives behind bars at the hands of our human frailties. Others, not so lucky, have likely been executed.

Some have argued that we need the death penalty to keep us safe, yet the death penalty has clogged our courts and distracted our attention. As the States' Attorney from my home county of Prince George's put it at the last hearing, "the death penalty sucks all the air out of the room" so there is little left to address meaningful solutions to crime and violence which our local communities cry out for.

Others have stated that our citizens need the death penalty to restore their faith in the criminal justice system, yet the long capital process has shattered the people's faith and hurt the families who were promised a myth of healing through executions. And given it is used for a very select group of murder victims, virtually all white and from the suburbs, it undermines confidence in our legal system in the very communities where public safety efforts are most challenged.

In the new era of DNA, life without parole, and the rising cries of victims' families, the people of Maryland are done clinging to justifications, misperceptions, and half-truths.

The General Assembly has given you a mandate to confront, once and for all, what the death penalty actually does for us in real life.

The evidence is overwhelming. The death penalty has failed the people of Maryland on every count – and myth after myth about the death penalty has been shattered in this hearing room.

The flaws that have been presented to you have covered everything from confused jurors to county variability, from high costs to high reversals, and more. In reality, Maryland's death penalty is a wasteful and harmful system that overwhelmingly leads to sentences of life without parole – an option that has been available to prosecutors in our state at indictment since 1987, and which most prosecutors have sought in capital cases at the get go. I urge you to consider the gravity of all of it – and especially the gravity of it all together – weighing down the death penalty until it is literally collapsing under the weight of its own problems.

BUT – even if you accept only some of the evidence that has come before you, you must recognize that something is terribly wrong.

If you believe nothing else, you now know that the death penalty puts victims' families through sheer hell. After the testimony of the many homicide survivors who came before you, you simply cannot still believe that the death penalty takes care of victims' families.

And if you believe nothing else, you cannot still believe that human beings get it absolutely right 100% of the time.

Jennifer Thompson, a victim of rape, looked you in the eyes and told you that even with her very best intentions and those of the police, the prosecutors, the juries, and the judges, one small mistake became a colossal nightmare for an innocent man.

A man who sits on this Commission with you, Kirk Bloodsworth, told you his personal story of being wrongly sentenced to death for a crime he had absolutely nothing to do with. He living and breathing proof that Maryland can and does get it wrong, and that such wrongs are discovered not because the system works but despite its failures.

And we know that Kirk's story is not unique. Other Marylanders have been wrongfully sentenced to long prison terms, and the system that got it wrong in those cases is the same one that still sentences people to die.

Still, we Marylanders can be proud – we have done our best to do it better. Our lawyers don't sleep through trials. We are not Texas, or Florida, or Alabama. We make mistakes, but we try.

And because we try, we have a system that is cumbersome and complicated and time-consuming. You can debate about whether to attach dollar figures to that time – a commonly accepted budgeting practice – but you cannot deny that the death penalty, with all of its additional constitutional requirements and appeals, takes more time.

And yet, for all the time and care we take, we are still human; we still risk error, arbitrariness, and disparate treatment.

The question before you, collectively, is what to do about it.

On this critical point, let me say this. No matter how much you might try to repair it, our death penalty system will continue to fail.

We must also be clear about what this Commission is about. This is not about the death penalty vs. letting killers go free.

The question before you is whether there is an alternative to the death penalty that is stronger, fairer, and more certain – an alternative that is more consistent with the evolving views of most Marylanders and more compassionate to those who have lost a loved one.

The answer is yes.

In Maryland, we already have and effectively use the punishment of life without the possibility of parole. The death penalty can and must be ended and life without parole can and must replace it.

In addition, nearly all of the homicide survivors have told you that Maryland should be doing more for them.

There is a gross lack of funding for organizations that care for homicide survivors. The good news is that there are programs emerging to serve this community and we need to make sure they get priority as the state budget tightens. One such program is Roberta's House, planned for Baltimore City, which will be the city's first freestanding traumatic grief and loss center, devoted to the needs of families devastated by murder. Please take extra care to share this piece of the puzzle with the Legislature and the Governor. They need to hear what you've learned, and homicide survivors need you to tell them.

I urge you to write a detailed and comprehensive report on all that you've learned about the death penalty. I respectfully urge that you recommend that the Legislature and the Governor repeal the death penalty and let life without parole be the maximum sentence in our state.

You should also recommend providing funds in the budget that would go specifically to non-profit organizations (like Roberta's house) that are serving the needs of homicide survivors. Some savings are assured when the state ends the death penalty and support for murder victims' families should be the first priority.

Maryland has the opportunity to end the death penalty, and to do so in a way that provides both a stronger and more certain punishment for offenders and addresses aggressively the needs of families touched by murder.

This is a unique and wonderful moment in our state's history. I urge you to seize it.

Thank you.